

# ARKANSAS SUPREME COURT

No. CR 06-231

NOT DESIGNATED FOR PUBLICATION

ROY LARSON YOUNG  
a/ka/ Roy Laron Young  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered April 27, 2006

*PRO SE* MOTION TO CORRECT CLERICAL  
MISTAKE IN JUDGMENT [CIRCUIT COURT  
OF PULASKI COUNTY, CR 2004-3897, CR  
2004-4542, CR 2005-1147, HON. MARION  
HUMPHREY, JUDGE]

APPEAL DISMISSED; MOTION MOOT

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## PER CURIAM

On June 16, 2005, judgment was entered reflecting that appellant Roy Larson Young, who is also known as Roy Laron Young, had been found guilty by the court of breaking or entering in CR 2004-3897. Judgments were also entered on that date reflecting that he had entered a plea of guilty to two counts of arson in CR 2004-4542 and witness bribery in CR 2005-1147. He was sentenced as a habitual offender in the three cases to an aggregate term of 120 months' imprisonment.

On December 28, 2005, appellant filed in the trial court a motion to correct a clerical mistake in the judgments. Appellant contended in the motion that several options were discussed before he entered the pleas of guilty and that he agreed to plead guilty with the understanding that the charges would be reduced to Class D felonies. The court ruled that the judgments correctly reflected the charges and the sentences imposed and denied the motion. Appellant Young has lodged an appeal here from that order.

Now before us is appellant's motion asking this court to correct the judgments. The motion is essentially a repetition of the claims raised in the trial court. The motion is not properly made to the appellate court. Moreover, we find that the trial court did not err when it denied relief, and we accordingly dismiss the appeal. The motion is moot.

This court has consistently held that an appeal of the denial of postconviction relief will not be permitted to go forward where it is clear that the appellant could not prevail. *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (*per curiam*); *Seaton v. State*, 324 Ark. 236, 920 S.W.2d 13 (1996) (*per curiam*); *Harris v. State*, 318 Ark. 599, 887 S.W.2d 514 (1994) (*per curiam*); *Reed v. State*, 317 Ark. 286, 878 S.W.2d 376 (1994) (*per curiam*).

While a court may correct a mere clerical error in a judgment at any time, a motion to correct a judgment which is based on a substantive claim that a sentence imposed did not conform to the agreement that the appellant reached when he or she entered a plea of guilty falls within the purview of Criminal Procedure Rule 37.1. Accordingly, the motion filed by appellant was subject to the limitations in the rule on the timely filing of a petition. Rule 37.2(c) provides that when a plea of guilty is entered, all grounds for postconviction relief must be raised in a petition under the rule within ninety days of the date that the judgment was entered following the plea. The rule also provides that when no appeal is taken from a judgment, the petition must be filed within ninety days of the date the judgment is entered to be considered timely.

The appellant here filed the motion challenging the judgments 195 days after the judgments were entered in his cases. The time limitations imposed in Rule 37.3(c) are jurisdictional in nature, and a circuit court may not grant relief on an untimely postconviction petition. *See Maxwell v. State*, 298 Ark. 329, 767 S.W.2d 303 (1989).

Appeal dismissed; motion moot.